

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
SOUTHERN DIVISION

JEREMY BAUER, Plaintiff, vs. JACOB GLASER, Defendant.	4:16-CV-04055-KES ORDER GRANTING MOTION FOR PROTECTIVE ORDER
---	--

Plaintiff, Jeremy Bauer, an inmate at the South Dakota State Penitentiary, filed a pro se lawsuit under 42 U.S.C. § 1983. Docket 1. The court screened Bauer's complaint under 28 U.S.C. § 1915A and directed service of the complaint. Docket 9. Defendant moved for summary judgment, arguing that Bauer failed to properly exhaust his administrative remedies and that the case should be dismissed. Docket 16. Defendant now moves to stay discovery until the court determines whether Bauer exhausted his administrative remedies.

Pursuant to Rule 26(c), "the court has discretion to stay discovery on other issues until the critical issue has been decided." 8A Charles Alan Wright, Arthur R. Miller, and Richard L. Marcus, *Federal Practice and Procedure* § 2040 (3d ed.). A stay of discovery is within the district court's discretion and is reviewed by the appellate court for an abuse of that discretion. *Steinbuch v. Cutler*, 518 F.3d 580, 588 (8th Cir. 2008) (citing *Lakin v. Prudential Sec., Inc.*,

348 F.3d 704, 713 (8th Cir. 2003)); *see also Maune v. Int'l Bhd. of Elec. Workers*, 83 F.3d 959, 963 (8th Cir. 1996) (upholding the district court's granting of a party's request to stay discovery). Because the exhaustion issue may be dispositive, the court grants defendant's motion to stay discovery. Thus, it is

ORDERED that defendant's motion for protective order (Docket 24) is granted. Discovery will be stayed until the court determines whether plaintiff has properly exhausted his administrative remedies. If summary judgment is denied, the stay on discovery will be lifted.

Dated August 31, 2016.

BY THE COURT:

/s/ Karen E. Schreier

KAREN E. SCHREIER

UNITED STATES DISTRICT JUDGE